

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

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Case No.	CV 12-4678 PSG (JCx)	Date	June 1, 2012
Title	Socal Fund 1, LLC v. Maria Jimenez-Ortiz		

Present:	The Honorable Philip S. Gutierrez, United States District Judge
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Wendy K. Hernandez	Not Present	n/a
Deputy Clerk	Court Reporter	Tape No.

Attorneys Present for Plaintiff(s):

Attorneys Present for Defendant(s):

Not Present

Not Present

Proceedings: (In Chambers) Order REMANDING Case to State Court

On May 29, 2012, Defendant Maria Jimenez-Ortiz (“Defendant”) filed a notice of removal of a civil action for unlawful detainer brought by Plaintiff Socal Fund 1, LLC (“Plaintiff”). *See* Dkt # 1. After reviewing Defendant’s notice of removal and the underlying Complaint, the Court finds that it lacks subject matter jurisdiction over this case. *See Valdez v. Allstate Ins. Co.*, 372 F.3d 1115, 1116 (9th Cir. 2004) (observing that a court is required to consider *sua sponte* whether it has subject matter jurisdiction).

Generally, subject matter jurisdiction is based on the presence of a federal question, *see* 28 U.S.C. § 1331, or on complete diversity between the parties, *see* 28 U.S.C. § 1332. If at any time before the entry of final judgment it appears that the Court lacks subject matter jurisdiction over a case removed from state court, it must remand the action to state court. *See* 28 U.S.C. § 1447(c); *Int’l Primate Prot. League v. Adm’rs of Tulane Educ. Fund*, 500 U.S. 72, 87 (1991). There is a “strong presumption” against removal jurisdiction, and the party seeking removal always has the burden of establishing that removal is proper. *Gaus v. Miles, Inc.*, 980 F.2d 546, 566 (9th Cir. 1992). If there is any doubt as to the propriety of removal, federal jurisdiction must be rejected. *Id.* at 567.

The well-pleaded complaint rule requires a federal question be evident from the face of the plaintiff’s complaint for jurisdiction under 28 U.S.C. § 1331 to exist. *See Caterpillar, Inc. v. Williams*, 482 U.S. 386, 392 (1987). Here, the Complaint only asserts a claim for unlawful detainer, a cause of action that is purely a matter of state law, and does not present a federal question.

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Defendant's notice of removal argues various violations of the Constitution and the Declaration of Independence. The Court first notes that the Declaration of Independence does not provide a private right of action. Second, under the well-pleaded complaint rule, a defendant's federal claims or defenses may not serve as a basis for removal. *See Takeda v. Nw. Nat'l Life Ins. Co.*, 765 F.2d 815, 822 (9th Cir. 1985); *Le v. Young Champions Recreation Programs*, 2008 U.S. Dist. LEXIS 36074, at *3-4 (C.D. Cal. Apr. 30, 2008) ("[R]emoval cannot be based on a counterclaim, cross-claim or third party claim raising a federal question; to hold otherwise would allow defendants to determine the removeability of a case."). Therefore, Defendant's constitutional claims do not confer jurisdiction in this matter.

Defendant also argues that removal is proper under 28 U.S.C. § 1443. *See Not.* 6:8-7:28. To establish removal under this statute, a defendant's notice of removal must (1) assert a right under a federal law protecting civil rights stated in terms of racial equality and (2) identify a state statute or constitutional provision that purports to command the state courts to ignore the enforcement of the specified federal right in state courts. *See City of Greenwood v. Peacock*, 384 U.S. 808, 824-28 (1966). Defendant has made no such showing.

Defendant also invokes diversity jurisdiction. *Not.* 2:4-5. For a federal court to exercise diversity jurisdiction, there must be "complete" diversity between the parties and the amount in controversy requirement must be met. *See Strawbridge v. Curtis*, 7 U.S. (3 Cranch) 267, 267 (1806); 28 U.S.C. § 1332(a). Here, Defendant's notice of removal fails to establish the citizenship of any party. As for the amount in controversy, the Complaint states the amount demanded does not exceed \$10,000. *Compl.* at 1:16-17. This is far below the statutory requirement that the amount in controversy must exceed \$75,000. 28 U.S.C. § 1332(a). Moreover, the Complaint only seeks damages in the amount of \$66.67 per day since April 3, 2012. *Compl.* ¶ 13. As of today, these damages would equal less than \$4,000. Therefore, even with costs of suit, the amount in controversy requirement cannot be met.

For the foregoing reasons, the Court finds that it lacks subject matter jurisdiction and REMANDS the case.

IT IS SO ORDERED.